

Koch, Kristine

From: ANDERSON Jim M <ANDERSON.Jim@deq.state.or.us>
Sent: Friday, August 09, 2013 8:26 AM
To: Koch, Kristine; Humphrey, Chip; Muza, Richard
Cc: PYLE Donald H; VROOMAN Gary L; JOHNSON Keith; DECONCINI Nina; Cora, Lori; Yamamoto, Deb
Subject: RE: State concurrence & acceptance

Kristine,

I wanted to let you know that I'm planning on meeting with DOJ soon to discuss your e-mail. I'll contact you to set up a meeting with EPA after we've met internally.

Jim Anderson
Manager, DEQ Portland Harbor Section
ph: 503.229.6825
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cell: 971.563.1434

From: Koch, Kristine [mailto:Koch.Kristine@epa.gov]
Sent: Monday, August 05, 2013 10:40 AM
To: ANDERSON Jim M; Humphrey, Chip; Muza, Richard
Cc: PYLE Donald H; VROOMAN Gary L; JOHNSON Keith; DECONCINI Nina; Cora, Lori; Yamamoto, Deb
Subject: RE: State concurrence & acceptance

Jim – EPA has some concerns and questions with your email. We would like to have a discussion with you regarding this that would include our legal representatives to work through this issue. We have shared information with DEQ under the MOU; not all the state agencies you listed are party to the MOU. Until we have an opportunity to discuss this with you, please do not share any draft documents with other state agencies that are PRPs. Please contact us to set up a meeting.

Regards,

Kristine Koch
Remedial Project Manager
USEPA, Office of Environmental Cleanup

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From: ANDERSON Jim M [<mailto:ANDERSON.Jim@deq.state.or.us>]
Sent: Thursday, August 01, 2013 3:32 PM
To: Humphrey, Chip; Koch, Kristine; Muza, Richard
Cc: PYLE Donald H; VROOMAN Gary L; JOHNSON Keith; DECONCINI Nina
Subject: State concurrence & acceptance

Chip & Kristine,

The purpose of this e-mail is to advise you of how the State initially intends to proceed with respect to State concurrence & acceptance of PH remedies.

As way of background & as I've briefly mentioned on occasion..., a number of OR State agencies meet once every-other-month to discuss & coordinate our efforts on PH. The State agencies involved in these "PH State Agencies meetings" are: DEQ, Department of State Lands (DSL), Department of Justice (DOJ), OR Department of Fish & Wildlife (ODF&W), OR Department of Transportation (ODOT), & representatives from the Governor's Office. Several of those State agencies are involved in the allocation group, but since there's a confidentiality agreement associated with the allocation effort..., we can't & don't discuss things associated with those allocation efforts in our PH State Agencies meetings or anyplace else.

During our most recent PH State Agencies meeting, we discussed State concurrence & State acceptance in the PH project..., & specifically who, how, & when the State should consider providing concurrence & acceptance. In way of background..., I understand the following:

1. State concurrence & acceptance are procedurally & substantively distinct.
2. State concurrence largely has to do with whether an EPA-proposed remedy will attain State ARARs, or..., if EPA intends to waive State ARARs..., whether DEQ concurs with those waivers. State concurrence is exercised or communicated by the "support agency", which is DEQ for the PH project. Of course, DEQ will want to coordinate & ensure that more than only DEQ rules are considered in our concurrence with State ARARs. We'll do that thru our continued coordination with other State agencies.
3. State concurrence is initially sought during the Proposed Plan, & finally sought during finalization of the ROD.
4. State acceptance may be based on factors in addition to ARARs. EPA's Proposed Plan should consider the State's position & key concerns related to EPA's recommended remedial action alternative & other alternatives. State acceptance need not be exercised or communicated thru the designated State support agency.
5. State acceptance is focused in the Proposed Plan phase of the project.
6. Finally, EPA should give substantial weight to all State concerns, consistent with the "substantial and meaningful involvement" contemplated by CERCLA.

I believe that in the PH project, EPA has treated the State (& DEQ as the "support agency") correctly & well. EPA has largely engaged DEQ in most every aspect of the PH & has seriously considered our concerns & input. We now want to make sure that both DEQ & the State as a whole are substantively involved the Proposed Plan & remedy selection. I'd like to do all we can to make sure we have as good an opportunity as possible to provide both State acceptance & concurrence in remedy selection & the Proposed Plan. In order to have that opportunity, I'll want to more fully engage my State partners in the development of the Proposed Plan. I'll start that engagement by sending them your 9/19/12 e-mail with your outline & approach to the Proposed Plan.

If you have any suggestions or concerns, please let me know.

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